

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7073

BILL NUMBER: SB 231

DATE PREPARED: Apr 8, 2001

BILL AMENDED: Apr 5, 2001

SUBJECT: Mail Order and Internet Pharmacy Designation.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) The bill allows insurers to designate a mail order, individually owned, or Internet pharmacy to provide prescription drugs to an insured. The bill prohibits an insurer from requiring as a condition of coverage that an insured purchase prescription drugs from a designated mail order, individually owned, or Internet pharmacy. The bill also prohibits an insurer from applying a higher co-payment if an insured does not purchase prescription drugs from an in-network designated mail order, individually owned, or Internet pharmacy.

The bill establishes the Rx Program to help provide discounted prescription drug prices to uninsured residents of Indiana. The bill requires the State Department of Health to submit an annual report to the Legislative Council on the enrollment and financial status of the Rx Program each year.

The bill allows a drug manufacturer or labeler that sells prescription drugs in Indiana through any state-funded or state-operated program to enter into a voluntary rebate agreement with the Department that requires rebate payments to be made to the state for the Rx Program each calendar quarter. The bill provides that the Department may prompt a review of the prescription drug component of the state Medicaid Program for drugs provided by a drug manufacturer or labeler that does not enter into a voluntary rebate agreement with the Department. The bill also requires the State Department of Health to make available certain information.

The bill authorizes the Department to negotiate the amount of the voluntary rebate entered into by a manufacturer or labeler and requires the voluntary rebate to take effect within a reasonable time. It also establishes a formula for the state to use in calculating discount prices for drugs covered by the voluntary rebate agreement. Beginning July 1, 2002, the bill requires a retail pharmacy to sell the drugs covered by the Rx Program to participants in the Program at the discounted price determined by the Department. The bill also establishes a procedure for resolving discrepancies in rebate amounts and allows the Department to audit a manufacturer or labeler to determine whether the price negotiated complies with certain requirements. The

bill provides the state with remedies for a violation.

The bill also establishes the Rx Dedicated Fund, consisting of: (1) revenue from manufacturers and labelers who pay rebates; and (2) appropriations or allocations to the fund.

Effective Date: (Amended) July 1, 2001; July 1, 2002.

Explanation of State Expenditures: (Revised) *Mail Order/Internet Pharmacies:* At this time, this provision has no fiscal impact to the state through the state's provision of health benefits to state employees. At the beginning of 2000, six state employee health plans allowed insureds to obtain prescription drugs from mail order pharmacies. However, none of the plans *required* purchases by mail order or the internet.

One can, however, develop a scenario where this provision could have a future fiscal impact to the state. This bill essentially provides for an "any willing provider" condition *within* an existing network and prohibits an insurer from *requiring* an insured individual to obtain prescription drugs from an internet or mail order pharmacy. As with other "any willing provider" requirements, there could be an impact to a health plan if and to the extent that mail order and Internet pharmacies can offer a lower cost alternative to health plans in exchange for volume assurances. If this provision precludes a health plan from obtaining the lowest possible price for pharmaceuticals (through a contractual arrangement with a mail order or internet pharmacy in exchange for the assurance of a higher volume of sales), the health plan may experience higher pharmaceutical costs than would have been experienced otherwise. Consequently, the higher health plan costs could be factored into insurance premiums and enrollment fees. Ultimately this could affect health plan costs to the state and/or to state employees.

Rx Program: The State Department of Health estimates that 147 new staff positions would be needed to implement this new program at a cost of \$7.3 M the first year and \$7 M in the second year. These estimates do not include any new system development costs. In order to operate the Rx Program as described, the Department would need to have the infrastructure of the program administration in place upon enrollment of the first beneficiaries. (The bill requires retail pharmacies to be reimbursed within one week of the claim.) Rebate revenues are required on a quarterly basis. The necessary cash flow for program implementation would most likely need to be funded by the State General Fund.

The Kaiser Family Foundation reported that in 1996, 23% of the non-Medicare population and 31% of Medicare beneficiaries had no prescription drug coverage. Most of the non-elderly Americans without drug coverage were reported to have no health insurance at all. (*The data reported is prior to the implementation of the CHIP program in Indiana.*) Seniors lack drug coverage because Medicare does not cover outpatient prescription drugs and they do not have a private policy. Applying these percentages of individuals with no prescription drug coverage to Indiana population estimates for 1998, approximately 1.4 million Hoosiers (1,179,738 non-Medicare and 227,792 Medicare beneficiaries) would qualify for the Rx Program.

Explanation of State Revenues: (Revised) *Rx Program:* In state FY 1999, the Medicaid Program reported 609,150 recipients and paid pharmacy claims of \$366,924,950. The total average recipient claim was approximately \$602.35 for the Medicaid population. For the same fiscal year, Medicaid reported total drug rebate payments of \$57,502,074. Rebates were approximately 15.67% of the total outpatient pharmacy claims or \$94.39 per recipient. If it is assumed that Medicaid outpatient pharmacy experience is applicable to the uninsured and under-insured population, the Rx Program rebates might produce annual revenue of \$132.9 M. After deducting administrative expenses, this would allow \$125.6 M, or \$89.71 per potential recipient, to be distributed as drug discounts.

Explanation of Local Expenditures: *Mail Order/Internet Pharmacies:* This provision could have a fiscal impact to school corporations and local governments through the provision of health benefits to their employees. (See Explanation of State Expenditures, above.) There could be an impact if this provision precludes a health plan from obtaining the lowest possible price for pharmaceuticals. Higher health plan costs than would have occurred otherwise could be factored into insurance premiums and enrollment fees. Ultimately, the impact to local governments and school corporations would depend upon administrative action as to the determination of the employer/employee cost share for health insurance benefits.

Explanation of Local Revenues:

State Agencies Affected: Department of Health and Family and Social Services Administration, Office of Medicaid Policy and Planning.

Local Agencies Affected: Local Governments and School Corporations.

Information Sources: Keith Beesley, Department of Personnel, 232-3062. "Demographic Trend Report, Division of Family and Children Selected Assistance Programs for State Fiscal Year 1999". The Henry J. Kaiser Family Foundation "Prescription Drug Trends" Fact Sheet #3057 at the Kaiser Foundation web site at www.kff.org, Marilyn Cage, Legislative Liaison for the State Department of Health, (317) 233-2170. And U.S. Census population estimates at www.census.org/statab/USA98/18/000.txt.